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10/524,455

02/10/2005

Eberhard Perplies

2002DE430

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7590

10/20/2009

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EXAMINER

BLAND, LAYLA D

ART UNIT

PAPER NUMBER

1623

MAIL DATE

DELIVERY MODE

10/20/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action

This office action is in response to Applicant's proposed amendment and response after FINAL filed on September 28, 2009.

The rejection of claims 1, 4, 6-9, 11, 12, 14, and 15 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, is withdrawn because "a sole viscosity developer" and "minimum of a few seconds" have been removed from the claims.

The rejection of claims 1, 4, 6-9, 11, 12, 14, and 15 under 35 U.S.C. 112, first paragraph, for lacking enablement for the production of cellulose ethers having a solvation delay with no upper limit is withdrawn. The limitation "minimum of a few seconds" has been removed from the claims.

Applicant's remarks/arguments filed September 28, 2009 after FINAL with respect to Menkart and Block are not found to be persuasive. Applicant argues that Menkart does not teach "admixing but not dissolving" cellulose ethers in water or organic suspension medium, and that Menkart does not define "suspended in." This argument is not persuasive because Menkart teaches that the cellulose can be "suspended in the solvent with agitation," and the liquid then separated, or that moist cellulose can be sprayed with the crosslinking agent and then subjected to a mixing action. Either of these meets the limitation "admixed but not dissolved." Menkart's "agitation" or "mixing action" meets the limitation "admixed." Menkart's description of a suspension or a mass of moist cellulose particles meets the limitation "not dissolved." The skilled artisan would understand that a suspension is not a solution of dissolved

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particles. Merriam-Webster online defines "suspension" as "the state of a substance when its particles are mixed with but undissolved in a fluid or a solid" or "a substance in this state."

Applicant argues that there would have no expectation of success for using glyoxylic acid in Menkart's process. This argument is not persuasive because Menkart is drawn to crosslinking cellulose ethers with glyoxal and Block teaches that either glyoxal or glyoxylic acid can be used for crosslinking cellulose ethers.

Applicant argues that Menkart does not teach pre-moistening cellulose ether with 40-80% water or 30-60% suspension medium. This argument is not persuasive because Menkart teaches a solid containing about 20-80% solution [column 3, lines 34-40] or a wet product containing 38% water [column 6, Example 5]. These overlap with, or are very close to, the percentages in claim 11.

Applicant argues that Menkart does not teach comminuting or milling. Menkart teaches that the cellulose starting material can be powdered [column 3, lines 11-13], or the product can be pulverized after drying [see Example 1]. As set forth in the Final rejection mailed June 1, 2009, reversing the order of steps in a multi-step process is not a patentable modification absent unexpected or unobvious results.

Applicant argues that Block does not teach reaction in which the cellulose is not dissolved. This argument is not persuasive because Menkart teaches that a number of techniques for crosslinking cellulose are suitable, including wherein the cellulose ether is dissolved or wherein it is suspended or moistened. Thus, the skilled artisan could expect success with any of these methods.

Applicant argues that Block teaches a “laundry list” of crosslinking reagents. This argument is not persuasive because glyoxylic acid is one of a limited number of crosslinking agents recited in claim 2.

Applicant’s arguments with respect to the declaration of Dr. Andreas Schultz have not been considered because the declaration is not entered. The declaration is not entered because Applicant did not provide a showing of good and sufficient reasons why the affidavit was not earlier presented.

For these reasons, the rejection is maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAYLA BLAND whose telephone number is (571)272-9572. The examiner can normally be reached on Monday - Friday, 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Anna Jiang can be reached on (571) 272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Layla Bland/
Examiner, Art Unit 1623

/Shaojia Anna Jiang/
Supervisory Patent Examiner
Art Unit 1623